

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RAFAEL CABRAL,

Petitioner,

vs.

Case No. 05-CV-73437
HON. GEORGE CARAM STEEH
Crim. No. 93-CR-81315-02

UNITED STATES OF AMERICA,

Respondent.

ORDER DENYING CERTIFICATE OF APPEALABILITY AS
TO SEPTEMBER 14, 2005 ORDER DISMISSING SECOND § 2255 PETITION (#620)

Rafael Cabral's September 7, 2005 motion for relief under 28 U.S.C. § 2255 was dismissed by the court on September 14, 2005 as a second § 2255 petition filed without permission of the court of appeals. See In re Clemmons, 259 F.3d 489, 491 (6th Cir. 2001); 28 U.S.C. § 2244(b)(3)(A). Before petitioner may appeal the September 14, 2005 decision, a certificate of appealability must issue. 28 U.S.C. §2253(c)(1)(B); Fed. R. App. P. 22(b). A certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. §2253(c)(2). Petitioner has made no such showing. Accordingly, a certificate of appealability is hereby DENIED.

SO ORDERED.

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

Dated: January 23, 2006

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record on January 23, 2006, by electronic and/or ordinary mail.

s/Josephine Chaffee
Secretary/Deputy Clerk

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